IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE SRI JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 9459 of 1997

Between:
R. Laxman S/o.Vittalaiah,
APSRTC Depot of Bheemgal, Conductor, Nizambad District.
..... PETITIONER

AND

1. The Presiding officer
   Labour Court -II Hyderabad.
2. The Regional Manager, APSRTC
   Nizamabad, Nizamabad District.
3. The Depot Manager APSRTC
   Bhodan, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of Mandamus, declaring the Award passed by the 1st respondent Dated 19-10-1995 in I.D.No.376/90, as ratified by the Government In G.O.Rt.No.3029, Dated 30-12-1995 to the extent of
disallowing the back wages and reduction of time scale of pay to the lowest time scale attached to the post of conductor as illegal , arbitrary and contrary to law and further direct the respondents 2 and 3 to pay all back wages with consequential benefits thereto including seniority, fixation of pay etc.

Counsel for the Petitioner: MR.J.KANAKAIAH

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondents 2 & 3: None appeared

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the Award passed by the Labour Court in I.D.No.376 of 1990 dated 19-10-1995 under which the order of removal was set aside, and substituted with an alternative punishment of reduction to the lowest rank in the seniority list fixing lower stage in the time scale of pay.

2. According to the petitioner, he was originally appointed as conductor on 23-02-1980. While he was discharging his duties as Conductor in the Bus, plying on the route 'Bodhan to Vijayawada' a check was conducted at stage 25/27 at 2 a.m. and the checking officials found re-issue of tickets of Rs.25/-, Rs.10/- and another Rs.35/- denominations. Therefore, the petitioner was charge sheeted accordingly. Thereafter, an enquiry was conducted. The Enquiry Officer submitted a report, as per which the charges were proved against the petitioner-workman. The petitioner was not successful before the appellate authority. Therefore, he approached the Labour Court, raising the industrial dispute. The Labour Court after considering the material placed before it, though agreed with the findings of the Enquiry Officer, as it did not find any defects in the domestic enquiry, but, however, considering the proportionality of the punishment set aside the order of removal and ordered reinstatement of the petitioner without any back wages while reducing to the lowest rank in the seniority list fixing the lower stage of time scale of pay. Aggrieved by that, the petitioner has come up with the present writ petition.

3. The learned Counsel for the petitioner contended that the Labour Court failed to consider the material on record properly and committed

an error in not setting aside the order of removal completely without substituting any alternative punishment. The learned Counsel also contended that even taking into account the gravity of the charges, the substituted punishment imposed by the Labour Court is also excessive and disproportionate to the charges. Therefore, the learned Counsel sought for setting aside the order of the Labour Court with a consequential direction to the respondents to reinstate the petitioner with continuity of service, back wages and all other attendant benefits.

4. On the other hand, the respondents supported the order of the Labour Court.

5. Heard both sides and considered the material on record.

6. As is evident from the facts, the petitioner who was appointed as Conductor, while discharging his duties, the checking officials found that the petitioner involved in cash and ticket irregularity by re-issuing of tickets of Rs.25/- denomination. In the domestic enquiry, the Enquiry Officer found that the charges are proved against him. Basing on the said report, the disciplinary authority passed orders on 22-07-1989, which were questioned in appeal. But, the appellate authority also rejected the same, by his order dated 19-03-1990. Thereafter, the petitioner approached the Labour Court. The Labour Court, though did not interfere with the findings of the domestic enquiry, but, however taking the punishment of removal with reference to the proportionality of the misconduct, modified the punishment of removal to that of reduction in the scale of pay as well as the reduction in the rank in the seniority. The grievance of the petitioner is that the substituted punishment imposed by the Labour Court is also equally excessive and disproportionate to the gravity of the misconduct alleged, therefore, the impugned order requires modification.

7. On consideration of the material on record as well as the Order of the Labour Court, I do not find any merit warranting interference of this Court with the order passed by Tribunal. The Tribunal has taken a lenient view, and, accordingly, set aside the order of removal passed by the Department and substituted the same with lesser punishment of reinstatement by reduction in the scale of pay as well as in the seniority. Therefore, the order of the Tribunal does not call for any interference.

8. The writ petition is, accordingly, dismissed. No costs.

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S. ANANDA REDDY, J

Dt.23-09-2004
Glv/kvh

ASSISTANT REGISTRAR

// TRUE COPY//

SECTION OFFICER

Copies to
1. The Presiding officer
   Labour Court -II Hyderabad.
2. The Regional Manager, APSRTC
   Nizamabad, Nizamabad District.
3. The Depot Manager APSRTC
   Bhodan, Nizamabad
District. 4. Two CCs to the
Government Pleader for Labour, High Court Buildings,
Hyderabad. (OUT
5. Two C D Copies.